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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

12 CR 813 (PGG)

5 PAUL PAPPAS,

6 Defendant.

7 -----x

8 New York, N.Y.
9 November 9, 2012
10:05 a.m.

10 Before:

11 HON. PAUL G. GARDEPHE,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 RUSSELL CAPONE

Assistant United States Attorney

18 MARTIN KLOTZ

19 MORGAN CLARK

Attorneys for Defendant

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(Case called)

MR. CAPONE: Russell Capone, for the government. Good morning, your Honor.

THE COURT: Good morning.

MR. KLOTZ: Martin Klotz, for Mr. Pappas. Good morning, your Honor.

THE COURT: Good morning.

This is our initial conference. Mr. Capone, tell me where we are in the case.

MR. CAPONE: Yes, your Honor.

The defendant waived indictment and consented to the filing of an information in magistrate court two days ago. It's an information charging him with wire fraud. He had been charged by complaint with several other counts, including aggravated identity theft and obstruction of justice, but the parties have been negotiating a plea to the information that was filed. I can't guarantee that that will happen, but we have been discussing a disposition. So that is where we are.

I am going to begin the process of getting discovery together. I wasn't going to do that because, at first, it looked like he would just plead to the information. But I'm going to begin putting the discovery together for the defendant. So that's where we are.

In addition, Judge Peck granted the defendant bail on Wednesday. The package involved posting a house as well as

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1 home incarceration, and the order was for him to remain
2 remanded until all conditions have been met. So that's why
3 he's still remanded, and the government doesn't intend to
4 appeal that decision to your Honor.

5 THE COURT: How long will it take you to make
6 discovery available?

7 MR. CAPONE: Your Honor, I think I can make a first
8 batch of discovery available in about a week and probably the
9 remainder within a couple weeks thereafter. There is a lot of
10 paper in this case.

11 THE COURT: Mr. Klotz, when do you believe it would
12 make sense for us to meet again?

13 MR. KLOTZ: I think if your Honor gave us 30 days
14 after the government completes discovery and then set it down
15 for a further conference, we would have a pretty good idea of
16 where we are at that point.

17 THE COURT: All right. So what I heard from you,
18 Mr. Capone, is about three weeks to produce everything?

19 MR. CAPONE: Yes, your Honor.

20 THE COURT: That would bring us to the end of
21 November, and 30 days from that would bring us into the new
22 year. So my intention would be to put us down for a conference
23 sometime in the first week of January.

24 THE DEPUTY CLERK: Thursday, January 3, at 11 a.m. is
25 available.

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1 THE COURT: Is that convenient for everybody?

2 MR. KLOTZ: Convenient for the defense, your Honor.

3 MR. CAPONE: Same here, your Honor.

4 THE COURT: We'll meet again January 3, 2013, at
5 11:00. Does the government wish to exclude time between now
6 and then?

7 MR. CAPONE: Yes, your Honor. And the reason would
8 be for the continued review of discovery and for the parties to
9 continue to discuss a disposition.

10 THE COURT: Any objection?

11 MR. KLOTZ: No objection, your Honor.

12 THE COURT: I will exclude time between today and
13 January 3, 2013, under the Speedy Trial Act, pursuant to Title
14 18, United States Code, Section 3161(h)(7)(A), to permit
15 defense counsel to review the discovery materials and to
16 continue his discussions with the government as to a possible
17 pretrial disposition.

18 I do find that the ends of justice served by the
19 granting of this continuance outweigh the best interests of the
20 public and the defendant in a speedy trial.

21 Anything further?

22 MR. KLOTZ: Judge, my client has asked me to seek
23 modification of the bail terms that were imposed by Judge Peck,
24 based on some additional information we would like to bring to
25 the Court's attention. Unless your Honor thinks otherwise, I

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1 think it probably makes more sense to go back to Judge Peck
2 first.

3 THE COURT: All right.

4 MR. KLOTZ: And not raise that before your Honor, but
5 I just wanted to alert you. I'll discuss that with Mr. Capone
6 when we're done here.

7 THE COURT: It makes sense to me, and you can tell him
8 that I'm happy to have him hear that request, given the fact
9 that he set the terms of the bail package in the first
10 instance.

11 MR. KLOTZ: That was my though, yes.

12 THE COURT: If there's nothing else, have a good day.

13 MR. KLOTZ: Thank you, your Honor.

14 MR. CAPONE: Thank you, your Honor.

15 (Proceedings adjourned)
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